

Report to Date	Planning Applications Committee 17 January 2013
Report of Subject	Head of Planning Services 12/01657/VC Notcutts Garden Centre Daniels Road Norwich NR4 6QP

SUMMARY

Description:	Variation of condition 1 – restriction on the types of goods sold on planning permission 07/00414/VC 'Variation of condition 3 of planning permission 05/00673/F for replacement building and modified entrance / car park, to allow office storage space to be used for garden centre retail use'.
Reason for consideration at Committee:	Objections
Recommendation:	Approve and take enforcement action if condition 2 not implemented in full.
Ward:	Eaton
Contact Officer:	Mr John Dougan Planner 01603 212504
Valid Date:	22 August 2012
Applicant:	Notcutts Garden Centre
Agent:	Bidwells

INTRODUCTION

The Site

Location and Context

1. Directly to north of the site is Daniels Road, playing fields are located to its west boundary and residential properties to its southern and eastern boundaries.
2. The site is known as the Notcutts Garden Centre comprising a large car park area to its west with the area to the east comprising a series of buildings and open areas such as covered sales areas, outdoor garden product sales areas, camping equipment, sheds, the Farm shop, a loading/storage area to the front entrance, a fish van outside the farm shop and three temporary buildings to the rear of the farm shop.
3. The site is flat with boundary treatment to the southern boundary being a 1.8 metre high close boarded fence, sporadic hedging and occasional trees.
4. The application site is known as the farm shop selling a range of food related goods (perishable and non perishable) – this food profile was confirmed during an officer site visit in September 2012. The unauthorised refrigeration units to the south elevation of the shop were used to keep perishable goods within the shop.

Constraints

5. There are no other specific constraints associated with this site.

Planning History

- **4/2002/0871** - Redevelopment to provide extended garden centre retail area. (APPR - 11/02/2003)
 - **04/00924/F** - Variation to condition 07 of previous planning permission 4/2002/0871/F to retain gravel surface to part of car park. (APPR - 26/11/2004)
 - **05/00673/F** - Demolition of existing Norflame and Sterling Pools buildings and construction of replacement building with additional office/storage space and modified entrance/car park. (APPR - 18/10/2005)
 - **06/01047/F** - Extension of canopy. (APPR - 22/11/2006)
 - **07/00414/VC** - Variation to condition 3 of previous permission 05/00673/F for replacement building and modified entrance/car park, to allow office/storage space to be used for garden centre retail use. (APPR - 07/06/2007)
 - **07/01270/F** - Extension to camping equipment display area and erection of a camping equipment display unit. (APPR - 07/01/2008)
 - **09/00667/F** - Glasshouse extension and new canopy areas. (APPR - 16/09/2009)
 - **11/02205/F** - Surfacing of existing car park. (APPR - 21/06/2012)
 - **12/01655/CLE** - Application for a Lawful Development Certificate for the continued use of part of the premises for the storage of composts, aggregates and fittings/display props (Class Sui Generis). (APPR - 26/10/2012)
 - **12/01640/F** – Extension of storage/loading area at front. Retention of 3 No. portable buildings for use ancillary to the garden centre. Occasional siting of wet fish van. (APPR – 11/12/2012)
 - **12/01656/VC** - Variation of condition 6 - the sale of certain goods within specified areas of planning permission 4/2002/0871 'Redevelopment to provide extended garden centre retail area' (pending consideration)
6. A series of unauthorised buildings and uses were identified throughout the site, and the applicant has submitted various applications to regularise matters. As can be seen in the case history above (last three items) two have been approved and one is pending
 7. The unauthorised refrigeration units were originally part of a separate line of investigation by the Council's planning enforcement team and at that stage not part of any formal planning application. These investigations included discussions with the applicant and their acoustic specialist to find a solution e.g. erection of a suitable acoustic absorption enclosure or their relocation to another part of the site. The conclusion in December 2012, was that they would have to be relocated in order to ensure that no significant noise impact on the amenity areas of residential properties would result.
 8. Following investigations by council officers, it was also identified that the shop contained a significantly higher percentage of perishable foods above what was originally thought meaning that the refrigeration units were a material component of the operation of the farm shop. The applicant agreed to incorporate the issue of the

unauthorised refrigeration units within this planning application – meaning its merits and impact on residential properties could be formally assessed.

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

9. This application is to formalise the unauthorised use of the building which is currently being used as a farm shop.
10. Vary condition 1 of 07/00414/VC *“The retail use shall be for the sale of plants, goods and equipment related to the main use of the site as a garden centre only”* to *“The retail use shall be for the sale of plants, goods and equipment related to the main use of the site as a garden centre, and/or for the use of a farm shop”*.
11. Appendix C of the applicant's Planning Statement identified the range of goods sold at the shop e.g. fruit/veg, cheese, pasties and chutneys – being broadly comparable with what is currently sold within the unauthorised farm shop.
12. The revised proposal also includes the relocation of the currently unauthorised 6no. refrigeration units along the south boundary and locating them within a new compound to the right of the entrance of the main garden centre, some 30 metres from the south boundary. This enclosure would be 4.8 metre long by 2.5 metres wide by 2.3 metres high.
13. Subject to planning approval the applicant proposes that the works would commence on March 2013 at the latest and due to the requirement to protect chilled foods the installation programme would be phased so that the units can be decommissioned one at a time.
14. The existing cycle racks would be relocated to the next parking bay so that they remain conveniently close to the entrance.

Representations Received

15. Adjacent and neighbouring properties have been notified in writing. Two letters of representation have been received citing the issues as summarised in the table below.

16.

Issues Raised	Response
Excessive noise generated by refrigeration units causing adverse impact on use of rear gardens.	Para 28-33
The unauthorised refrigeration units have been there too long and the council is not taking enough action.	Para 38 - 40

Consultation Responses

17. Environmental Heath – No objection subject to the works being carried out in a timely manner to avoid enforcement action.

18. Highways Authority – The scale of the proposal is such that the overall impact on the site in transport terms will be negligible. No objection

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

- Statement 1 – Building a strong and effective economy
- Statement 2 – Ensuring the viability of town centres (paragraph 24)
- Statement 4 – Promoting sustainable transport
- Statement 7 – Requiring good design

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

- Policy 2 – Promoting good design
- Policy 5 – The economy
- Policy 6 – Access and transportation

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

- SHO3 – Locational conditions for new retail development – sequential test
- HBE12 – High quality of design, with special attention to height, scale, massing and form of development
- EP10 – Noise protection between different uses
- EP22 – High standard of amenity for residential occupiers
- TRA6 - Parking standards –maxima
- TRA7 - Cycle parking standards

Other Material Considerations

- The Localism Act 2011 – s143 Local Finance Considerations
- Ministerial statement – Planning for Growth March 2011

Principle of Development

19. The use of the wider site as a garden centre has been long established.
Regularising the definition used by the applicant to describe the activity 'farm shop' needs further clarification as it is for all intense and purposes could be a description which implies an activity ancillary to an agricultural use.
20. The garden centre is of course not ancillary to an agricultural business, so the type of convenience food products sold and stated in the applicant's planning statement e.g. chutneys, jams, cheese are essentially an A1 retail activity. In policy terms, the compatibility of such an activity would need to undergo a sequential test in line with policy SHO3 and paragraph 24 of the NPPF, explaining why a shop having a floor area of 90sqm could not be located in a more accessible location such as a vacant unit within a the city centre or local/district centre. No such justification has been submitted with the application, so the proposal does not meet the requirements of this policy and it is considered that there would be vacant units of this size within a defined centre.
21. Every application should be assessed on its own merits, so it is a case of determining if such an activity is compatible with the main garden centre use or whether or not its scale would harm the viability or vitality of other centres.
22. In light of the fact that the unit is set within the grounds and visually linked to the wider garden centre, it is highly likely that the primary purpose of a typical customer's trip would be to visit the garden centre, visiting the other units on the site such as the farm shop, fish van or the hot tub shop.
23. Similarly, the floor area of the premises only being of a modest size, means that its trading capacity to sell convenience food products similar to those set out in paragraph 20 above is relatively small in the context of the wider site.
24. In light of the points, raised above the proposal is also not considered to create an activity which would cause significant harm to the viability and viability of other retail centres. It should also be noted that the regularisation of such an activity is likely to contribute to the continued viability of the Notcutts Garden centre particularly given that such so called 'farm shops' are commonly associated with garden centres. Such an approach is considered pragmatic in line with paragraph 24 of the NPPF.
25. The principle of the proposal is considered to be acceptable subject to the term 'farm shop' being deleted and any revised condition refering to the more precise and definable term 'convenience food products'. Its acceptability is also subject to the relocated refrigeration units being of a satisfactory scale/design and being sympathetic to the residential amenity of nearby properties.

Scale and design

26. The only changes will include the removal of the 6no. unauthorised refrigeration

units behind the existing farm shop building. Whilst largely unseen from public view their removal is considered to be an improvement to the appearance of this part of the site.

27. The relocation of the units beside the entrance and set behind a close boarded fence enclosure will mean they will not be visible in the public realm resulting in a positive design improvement.

Impact on Living Conditions

28. The revised location of the refrigeration units and accompanying noise impact assessment has demonstrated that the units will not cause any significant disturbance to the residential properties to the south. However, the issue of the existing units needs to be resolved as they can cause noise nuisance to the residential amenity of the garden areas of some residents. The level of nuisance being dependant on a number of factors including time of year and use of the garden area.
29. There is potential for the units to be running at full capacity due to the warmer conditions experienced in spring and summer. It could be argued that given that this area is at the rear of long gardens along Eaton Road. However, they are still considered to be sensitive areas which may be enjoyed by the residents especially in the summer months.
30. Material to the assessment of the application is the fact that the units have been unauthorised for some time and whilst the applicant has been working with the council, they are aware of the nuisance caused to the residents.
31. The applicant's proposal to implement a phased programme of relocation starting in the first week of March 2013 - ensuring that the perishable foods are not compromised is noted. However, the applicant was reminded on the 20th December of the need to plan for such a relocation well in advance so that the amenity of the residents is safeguarded.
32. When imposing conditions it is important to be both reasonable and realistic when imposing time constraints. However, in this case the applicant should already be well aware of the extent of the work required and given the history of the impact of the units on the residents, any slippage of this timetable into the summer months is not considered acceptable resulting in prolonged nuisance to the residents
33. It is therefore recommended that the works must be completed in full within two months of the date of the decision i.e. removal of the unauthorised units on the south boundary and their relocation by that date.

Transport and Access

34. The Highway authority has confirmed that the formalisation of the range of products which can be sold within the building will not result in any significant problems relating to parking or highway safety. Given the extremely small scale of the unit in question and its location forming part of a wider garden centre site it is unlikely that it would generate any significant numbers of direct trips and most trips are likely to be linked with the wider garden centre.

35. The applicant proposed to relocate the existing cycle stands. It is recommended that their relocation be tied with the implementation of the new refrigeration unit compound, ensuring that the site still has some capability to accommodate sustainable modes of transport for staff and customers.

Local Finance Considerations

36. Business Rates are payable for commercial buildings and uses.

Equality and Diversity Issues

37. None

Enforcement

38. The current unauthorised use would not be supported as neighbouring properties would be exposed to elevated noise levels as a result of the normal operation of the air handling units
39. Several attempts have been made to resolve the issue in conjunction with the owner and tenant's cooperation to resolve the issue including the making of acoustic improvements to the air handling units but these have not resulted in a satisfactory outcome.
40. A further spring and summer season where the amenity of the gardens of the neighbouring houses are harmed is not acceptable and therefore a further recommendation is to give officers delegated powers to take enforcement action to secure the removal of the unauthorised air handling units should the consent not be implemented or the recommended conditions not be complied with.

Conclusions

41. The formalisation of the use of the building to enable the applicant to use it for garden centre products and as a farm shop, although contrary to the sequential approach, is by virtue of its small scale and position relative to the main garden centre area considered broadly compatible with the wider garden centre and acceptable.
42. The design and scale of the refrigeration unit compound is considered to be sympathetic to the appearance of the garden centre and wider area.
43. The relocated refrigeration units will ensure that no significant noise nuisance to the adjoining residential properties to the south will result. A condition requiring that the currently unauthorised refrigeration units be removed within two months of the date of decision, will allow the applicant ample time to undertake the works and ensure that the nearby residents are not subjected to any significant additional nuisance over the summer period.
44. A condition requiring that the relocated cycle stands be operational within two months of the date of any decision will ensure that the site continues to have

adequate cycle parking capability.

45. On balance it is considered that the current position of the air handling units is not considered acceptable. The likelihood of noise disturbance from the units to residential areas in the vicinity could not be made acceptable by conditioning of any planning permission.
46. It is therefore necessary to ask for authorisation from the Planning Applications Committee to ensure the cessation of the unauthorised stationing of the air handling units and therefore remedy the breach of planning control should the consent not be implemented or the recommended conditions not be complied with.

RECOMMENDATIONS

1) To approve Application No (12/01657/VC Notcutts Garden Centre, Daniels Road) and vary condition 1 to become "The retail use shall be for the sale of plants, goods and equipment related to the main use of the site as a garden centre, and/or the sale of convenience food products". All other relevant conditions of previous approval 07/00414/VC will still apply including the following additional conditions:-

1. In accordance with the plans
2. Removal and relocation of the unauthorised refrigeration units within two months
3. Relocation of cycle stands within two months
4. Restrictive use condition to sale of plants, goods and equipment related to the main use of the site as a garden centre, and/or the sale of convenience food products;

2) Authorise enforcement action to secure the removal of the unauthorised air handling units should the consent not be implemented or the recommended conditions not be complied with including enforcement notice, stop notice, direct action and prosecution if necessary.

Reasons for approval:

The formalisation of the use of the building to enable the applicant to use it for garden centre products and as a farm shop, although contrary to the sequential approach, is by virtue of its small scale and position relative to the main garden centre area considered broadly compatible with the wider garden centre and acceptable

The design and scale of the refrigeration unit compound is considered to be sympathetic to the appearance of the garden centre and wider area.

The relocated refrigeration units will ensure that no significant noise nuisance to the adjoining residential properties to the south will result. A condition requiring that the currently unauthorised refrigeration units be removed within two months of the date of decision date, will allow the applicant ample time to undertake the works and ensure that the nearby residents are not subjected to any significant additional nuisance over the summer period.

A condition requiring that the relocated cycle stands be operational within two months of the date of any decision will ensure that the site continues to have adequate cycle parking capability.

The development is therefore compliant with statements 1, 4 and 7 of the National Planning Policy Framework 2012, policies 2, 5 and 6 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, and policies HBE12, EP10, EP22, TRA6 and TRA7 of the City of Norwich Replacement Local Plan 2004.



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Planning Application No 12/01657/VC

Site Address Notcutts Garden Centre Daniels Road

Scale 1:2,000



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City Council

PLANNING SERVICES



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Rev.	Date	By	Amendment
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PROPERTY DEPARTMENT

Notcutlits Limited

Ipswich Road

Suffolk

IP12 4AF

Tel: 01384 455344

Fax: 01384 455444

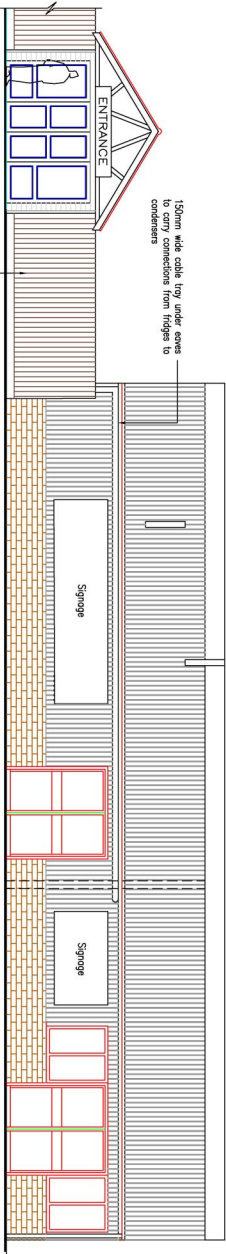
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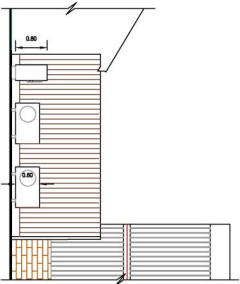
Drawing Title
Farm Shop Condenser Relocation
Elevations

Scale	Drawn	Date
1:100	.	Sept 12
Dwg Number	Revision	
GNR04.31.1-02		

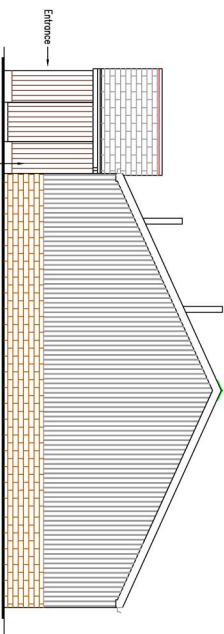
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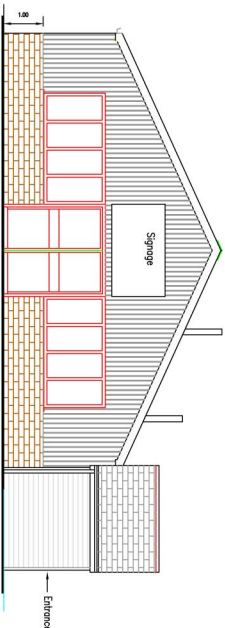
West Facing (Front) Elevation



Section Through A-A



South Facing (Side) Elevation



North Facing Elevation

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PROPERTY DEPARTMENT

Notcutts Limited
Ipswich Road
Suffolk
IP12 4AF
Tel: 01284 455344
Fax: 01284 455345
www.notcutts.co.uk

Address

Daniels Road
Norwich
NR4 6QP

Drawing Title

Form Shop Condenser Relocation
Plan

Scale	Drawn	Date
1:200	.	Dec 12
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